

ASSEMBLY BILL

No. 263

Introduced by Assembly Member Chan

February 8, 2005

An act to amend Section 108921 of, and to add Section 108921.5 to, the Health and Safety Code, relating to toxic chemicals.

LEGISLATIVE COUNSEL'S DIGEST

AB 263, as introduced, Chan. Toxic substances.

Existing law prohibits, on and after June 1, 2006, a person from manufacturing, processing, as defined, or distributing in commerce a product, or a flame-retarded part of a product, containing more than 1/10 of 1% pentaBDE or octaBDE, except as specified.

This bill would require the Department of Toxic Substances Control to administer and enforce those provisions, including, but not limited to, adopting regulations to implement those provisions. The bill would authorize the department to assess a civil penalty upon a person who violates those provisions in an amount greater than \$1,000 but not more than \$5,000, using a specified notice and hearing procedure. The bill would authorize the department to assess a civil penalty in an amount equal to, or less than, \$1,000, using a specified informal notice and hearing procedure. The bill would provide that each violation of those provisions chapter is a separate violation and each day of the violation is a separate violation.

The bill would require the department to deposit all revenues from civil penalties in the Penalty Account, which the bill would created in the State Treasury. The bill would authorize the department to expend the money in the Penalty Account, upon appropriation by the Legislature, to implement these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 108921 of the Health and Safety Code is
2 amended to read:
3 108921. For purposes of this chapter, the following
4 definitions apply:
5 (a) "OctaBDE" means octabrominated diphenyl ether or any
6 technical mixture in which octabrominated diphenyl ether is a
7 predominate congener.
8 (b) "PBDE" means polybrominated diphenyl ether.
9 (c) "PentaBDE" means pentabrominated diphenyl ether or any
10 technical mixture in which pentabrominated diphenyl ether is a
11 predominate congener.
12 (d) "*Department*" means the *Department of Toxic Substances*
13 *Control*.
14 (e) "Congener" means a specific PBDE molecule.
15 ~~(e)~~
16 (f) "Process" does not include the processing of metallic
17 recyclables containing PBDEs that is conducted in compliance
18 with all applicable federal, state, and local laws.
19 ~~(f)~~
20 (g) "Product" means a product manufactured on or after June
21 1, 2006.
22 ~~(g)~~
23 (h) "Metallic recyclable" has the same meaning as a metallic
24 discard, as defined in Section 42161 of the Public Resources
25 Code.
26 ~~(h)~~
27 (i) "Recycle" has the same meaning as defined in Section
28 40180 of the Public Resources Code.
29 ~~(i)~~
30 (j) "Technical mixture" means a PBDE mixture that is sold to
31 a manufacturer. A technical mixture is named for the
32 predominant congener in the mixture, but is not exclusively made
33 up of that congener.
34 SEC. 2. Section 108921.5 is added to the Health and Safety
35 Code, to read:

1 108921.5. (a) The department shall administer and enforce
2 this chapter, including, but not limited to, adopting regulations to
3 implement this chapter.

4 (b) The department may assess a civil penalty upon a person
5 who violates this chapter or any regulation adopted pursuant to
6 this chapter, in an amount greater than one thousand dollars
7 (\$1,000) but not more than five thousand dollars (\$5,000), only
8 after notice and hearing in accordance with Chapter 5
9 (commencing with Section 11500) of Part 1 of Division 3 of Title
10 2 of the Government Code.

11 (c) The department may assess a civil penalty upon a person
12 who violates this chapter or any regulation adopted pursuant to
13 this chapter, in an amount equal to, or less than, one thousand
14 dollars (\$1,000), only after notice and hearing in accordance with
15 the informal hearing process pursuant to Article 10 (commencing
16 with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of
17 Title 2 of the Government Code.

18 (d) Each violation of this chapter is a separate violation and
19 each day of the violation is a separate violation.

20 (e) The department shall deposit all revenues from civil
21 penalties in the Penalty Account, which is hereby created in the
22 State Treasury. The department may expend the money in the
23 Penalty Account, upon appropriation by the Legislature, to
24 implement this chapter.